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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,046	05/07/2002	Finn Gramnas	P1703USA 6154	
24314	7590 07/01/2005		EXAMINER	
JANSSON, SHUPE & MUNGER, LTD			STEWART, ALVIN J	
245 MAIN STREET RACINE, WI 53403			' ART UNIT	PAPER NUMBER
			3738	3738
			DATE MAILED: 07/01/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary    DO18,046   CRAMNAS, FINN   Examiner   Art Unit   Art		Application No.	Applicant(s)				
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  THE MAILING DATE OF THIS COMMUNICATION.  THE MAILING DATE OF THIS COMMUNICATION.  A BLORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  The main state 3K (6) MONTHS from the making date of this communication.  If the sended for map's specified above is lase the thirty (30) days, a reply within the state developed provided and the communication.  If the sended for map's specified above is lase the thirty (30) days, a reply within the state and replaced in the lower and provided period for reply specified above is last the thirty (30) days, a reply within the state and replaced period for reply specified above is last the thirty (30) days, a reply within the state and replaced period for reply specified above is last the thirty (30) days, a reply within the state and period pe		10/018,046	GRAMNAS, FINN				
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## Response to Amendment

After a careful examination of claim 9, the Examiner has withdrawn the Notice for Allowance. The Examiner has incorporate; again, the Fogg reference into a new rejection because the Examiner believes there is not enough structure limitations in the claim in order to overcome the rejection.

Claim 9 discloses only a prosthesis comprising a leg element (32), a foot element, a pivoting joint (33), having front (13) and rear (11) ends; a cylinder (47), a position-adjustable resilient element and a linkage.

The position-adjustable resilient element of the Fogg reference clear reads on a resilient element positionable within the cylinder to a fixed position corresponding to a selected position. The selected position is the position shown in Figure 3 during the movement of the patient.

The Applicant has to clarify that the adjustable position is made by an angular rotatable adjustment of the foot with respect to the leg element.

The Applicant representative has not invoked the 35 U.S.C. 112,  $\pi$  6, therefore, the intended use and the intended position of the foot element relative to the leg element have not been given patentable weight. If the Applicant wishes to have the claim limitation treated under 35 U.S.C. 112,  $\pi$  6, applicant must either:

- 1. Amend the claim to include the phrase "means for" or "step for"; or
- 2. Show that the claim limitation is written as a function to be performed and does not provide sufficient structure, material, or acts which would preclude application of 35 U.S.C. 112,  $\pi$  6.

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Art Unit: 3738

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted

on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

international application designated the United States and was published under Article 21(2) of such

treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public

use or on sale in this country, more than one year prior to the date of application for patent in the United

States.

Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Fogg US

Patent 2,470,480.

Fogg discloses a foot (see Fig. 1) pivotally connected to the leg element (see Figs.

1 & 2), a cylinder (47) within the foot element (see fig. 1), a linkage (48) joining the

resilient element to the foot, a position-adjustable resilient element (51) positionable

within the cylinder to a fixed position (the Examiner interpreted the "position-adjustable

resilient element" as the movement made during the patient's stance and swing phases of

the gate cycle.

Claim Objections

Claim 3 is objected because it depends on a canceled claim. Correction is

required.

Allowable Subject Matter

Claim 7 is allowed.

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Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor. Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3738

June 22, 2005.

Art Unit 3738

ALVIN J. STEWART PRIMARY EXAMINER